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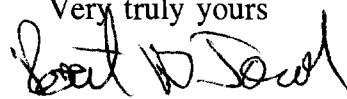
March 3, 1998

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Dear Ms. Salas

On behalf of Mt. Wilson FM Broadcasters, Inc., there are herewith transmitted an original and nine copies of its "Still Further Supplement to Comments of Mt. Wilson FM Broadcasters, Inc. On Further Notice of Proposed Rulemaking."

Very truly yours



Robert B. Jacobi

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

# Federal Communications Commission

In the Matter of Establishment of Rules  
and Policies for the Digital Audio Radio  
Satellite Service in the 2310-2360 MHz  
Frequency Band

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IB Docket No. 95-91 ✓  
GEN Docket No. 90-357  
RM No. 8610

## **STILL FURTHER SUPPLEMENT TO COMMENTS OF MT. WILSON FM BROADCASTERS, INC. ON FURTHER NOTICE OF PROPOSED RULEMAKING**

Mt. Wilson FM Broadcasters, Inc. (hereinafter "Mt. Wilson") has participated in the above-referenced proceeding through the filing of timely Comments and through the filing of supplemental comments -- the last Supplemental Comments have been filed on February 20, 1998. The singular reason necessitating the filing of supplemental comments has consistently been the same -- the discovery of new information, information concerning the plans of the DARS permittees to make use of high-powered terrestrial repeaters to transmit satellite-originated signals. Such new information consistently comes to light on an ongoing basis -- daily, weekly and monthly.

The ongoing accumulation of the new information reflects a satellite radio concept radically different from that initially proposed by the DARS proponents, different from that

initially authorized by the FCC and different from that initially contemplated by the Further Notice of Proposed Rulemaking. Since the DARS permittees choose not to keep the Commission advised as to their ultimate plans and continue the practice of publicly announcing their plans in "bits and pieces" -- as the situation may demand, Mt. Wilson respectfully submits that its supplemental filings at least afford the Commission a more balanced perspective of the proposed satellite radio service as contemplated by the DARS permittees. Noteworthy are the following:

American Mobile Radio Corporation proposes to construct as many as 1,000 land-based radio translators with a power of 10,000 watts each for satellite retransmission; to utilize half of the allocated spectrum for satellite transmission; and to use half of the allocated spectrum for land-based translators (Radio and Records, January 30, 1998);

CD Radio plans to construct 140 land-based translators in the top 40 markets (Radio Business Report, February 23, 1998).

In the Further Notice of Proposed Rulemaking (FNPRM), the Commission set forth the fundamental principles underlying prospective DARS use of terrestrial repeaters -- to permit terrestrial repeaters where DARS signals may be difficult to receive (i.e., urban canyons) and to ensure that use of terrestrial repeaters is complementary to the DARS service. In paragraph 138 of the FNPRM, the following was stated:

"In the Notice, we noted that some satellite DARS applicants intend to implement, as necessary, terrestrial repeaters, or 'gap-fillers', in urban canyons and other areas where it may be difficult to receive DARS signals transmitted by a satellite."

In paragraph 140 of the FNPRM, the following is stated:

"Satellite DARS applicants provided additional information on how

terrestrial gap-fillers will be used with their satellite DARS systems. The commenters agree that terrestrial repeaters would be used to improve satellite DARS service in the authorized satellite coverage areas only and on the same frequencies, and that they would not be used to extend the satellite coverage area or be used to originate programming. CD Radio and DSBC maintain that terrestrial gap-fillers will only be complementary to the satellite DARS systems because they will operate on the same frequency as the satellite transmission and only retransmit the signals of operating satellite DARS space stations to improve service link margin in difficult propagation environments, especially in urban areas.”

In paragraph 142 of the FNPRM, the following is stated:

“At the same time, the Commission. . . , must determine how to ensure any use of terrestrial repeaters is complementary to the DARS service and is only for retransmission of signals received from the satellite.”

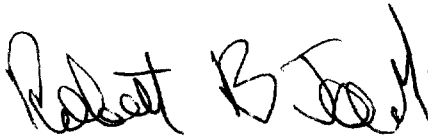
Nothing proffered by DARS commenters and reflected in the FNPRM or proposed by the Commission in the FNPRM even remotely suggested the use of 1,000 (or 140) ten kilowatt transmitters or the use of terrestrial repeaters on different frequencies from the DARS service. The DARS applicants effectively are now asserting that the “urban canyons” comprise the Atlantic to the Pacific -- in short, the entire United States. Ten kW translators are not necessary to serve “urban canyons;” indeed, translators of 1 kW exceed necessary power requirements to serve “urban canyons.”

Mount Wilson supports the NAB Response but believes that the 1 KW power limit is too high. The land based transmitters, if allowed, should be limited to the equivalent of 100 watts at 100 meters height above average terrain, and operating on-channel in real-life gaps in coverage so as to truly be consistent with the concept of fill-in and not to be used to create a new broadcast service.

Enclosed herewith is an article from the February 23, 1998 issue of Radio Business  
Report concerning the planned use of terrestrial repeaters by the DARS permittees.<sup>1/</sup>

Respectfully submitted,

MT. WILSON FM BROADCASTERS, INC.



By: \_\_\_\_\_

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Date: March 3, 1998

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<sup>1/</sup> The Commission should not allow the auction receipts to influence the outcome of the Further Notice of Proposed Rulemaking. The spectrum utilization, as contemplated by the auction proceeding, differs from the use now contemplated by the DARS permittees.

## News Analysis

### NAB Fly-In: Running radio post-Telcom

by Katy Bachman

Two years after Telcom, after broadcasters have wheeled and dealt to build the biggest radio groups ever in the history of the biz, the focus turns to making it all work. The NAB's annual Fly-In agenda last week at the infamous Pentagon City Ritz Carlton, was peppered with discussions about issues that will directly affect broadcasters' bottom line at a time when the Democrats, with a majority of three votes on the FCC, can essentially pass whatever they want.

Broadcasters don't have an FCC champion, as they did with feisty former Commissioner **Jim Quello**. Still, Commissioner **Michael Powell**, who spoke (2/18) may fill the bill (see related story, below).

The ultimate battle on issues such as free air time (*RBR* 2/2, p. 2), may rest with Congress, where elected officials are quick to remind the FCC that Congress makes the laws, not the FCC.

In the halls and at the receptions, the

biggest three-letter word was the DOJ. While its actions have often baffled broadcasters, a side effect has been that the FCC has delayed its actions on radio deals until the DOJ resolves its concerns. Many broadcasters are also appalled at DOJ's baiting of agencies, typified by **Reid Horwitz's** plea last week (2/13) to agencies at the American Association of Advertising Agencies Media Conference in Anaheim (see related story, p. 3).

There was even a bit of wistful looking ahead at the 2000 Presidential election as **Steve Forbes** addressed broadcasters the night after the Radio Operators Caucus met. The *Forbes* publisher endeared himself to broadcasters: He opposes the McCain-Feingold campaign reform bill (he's for total disclosure) and he urged a partial solution to the Iraq crisis which included radio broadcasts, a la VOA to the Iraqi population.

Legislative issues aside, broadcasters were reminded by their lobbying arm that with consolidation comes concerns they must recognize and address, not just from the FCC, Capitol Hill, and DOJ, but from consumers. One group head expressed his worry that in running these large megagroups, broadcasters will forget what radio is about and jump to the easy solutions to maximize the short-term dollar.

### DAB closes in

by Carl Marcucci

**Randy Odeneal**, chairman of the NAB's DAB task force and General Partner, Sconnix Broadcasting, updated broadcasters on several technology issues including satellite DARS, IBOC and Eureka-147.

• **Satellite DARS** Odeneal reassured broadcasters that there was less to fear from DARS because the economics just weren't working. "They [CD Radio and AMRC] are going deeply into the hole before they get their first \$10 subscription check. By their own admission, they've lost \$70M thus far and they expect to lose another \$170M by the end of next year."

Both companies now openly admit they will need terrestrial repeaters to make the systems work in urban canyons. "AMRC said they would need as many as 1,000 terrestrial repeaters. CD Radio is not being entirely candid—they said they would need 140 in the top 40 cities."

• **IBOC** Many broadcasters, including Odeneal, would like to see IBOC get out of the chute before the satellite people hit their implementation deadline sometime in 1999, a deadline Odeneal believes is iffy. USADR expects to have receivers in the stores for Christmas 2000 and mobile testing is expected this year.

Lucky for IBOC, Eureka 147—the system preferred abroad—is losing its toe-hold. "The Mexicans announced last Fall that they are no longer supporting L-band Eureka DAB and in fact are waiting to see how IBOC developments go in the US," reported Odeneal. He added that Canadians are realizing that Eureka is a cellular configuration and one antenna will only go 25 miles, so they need six or seven antenna sites to match the analog coverage.

Meanwhile, broadcasters are anxious for IBOC, now with two developers, USADR and DRE, to become reality (*RBR* 2/16, p. 6). Said Odeneal: "We're moving forward. On the one hand, it's always wonderful to have competition. On the other hand, it certainly complicates the process a little bit in choosing a winner. Either way, there's a time for everything, and the time for digital has come. Everybody is committed in the industry from the NAB to the broadcaster."

### Powell tunes in radio

by Frank Saxe

"I have a new hero at the FCC," is what one group head had to say after hearing Commissioner **Michael Powell** (R) at last week's NAB Group Head Fly-In. Powell, one of four new commissioners, admitted he "has a lot to learn about radio," although he has apparently been keeping tabs on the radio stock chart, joking he wished ethics laws allowed him to have one or two in his portfolio.

Powell said it is too soon to say whether the 1996 Telcom Act is a failure, but he said there have been "subtle signs of trouble in paradise," particularly with diversity and minority ownership. "The next big episode in the continuing saga of deregulation and competition is how we define these 'diversity' objectives and how we pursue them in light of a more competitive free-market paradigm." Powell said radio should be more proactive, and expressed support for reviving minority tax credit programs.

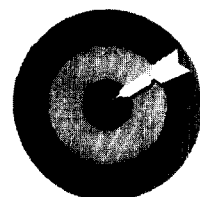
"These consolidations have unquestionably made the radio industry more efficient and probably has made radio stations more effective competitors," said Powell. The FCC is presently conducting a review of duopoly, as required by Telcom, and Powell tells *RBR* he has no way of knowing where the Commission will go since "a gut feeling is anything that will get three votes."

Powell was the first commissioner to address a radio-only crowd, and NAB Radio Board President **Howard Anderson** called him a "breath of fresh air," although Anderson said diversity issues would be better addressed to the banking industry since access to capital is what hurts minorities most.

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**CERTIFICATE OF SERVICE**

I, Brenda Chapman, hereby certify that on this 3rd day of March, 1998 a copy of the foregoing "Still Further Supplement to Comments of Mt. Wilson FM Broadcasters, Inc. On Further Notice of Proposed Rulemaking" was sent via First Class U.S. mail, postage prepaid to the following:

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